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**Memorandum of Agreement
Between
City of Newton
And
The Newton Superior Officers Association**

September 2009

The City of Newton (City) and the Newton Superior Officers Association, collectively the "Parties," hereby agree to extend their collective bargaining agreement (effective July 1, 2006 through June 30, 2009) through June 30, 2011, except as modified herein by this Memorandum of Agreement.

1. Duration of Agreement

July 1, 2009 – June 30, 2011

2. Wages and Stipends

A. Wages

Fiscal Year 2010:	Effective July 1, 2009	0% wage Increase
Fiscal Year 2011:	Effective July 1, 2010	0% Wage Increase

Reopeners: The Parties agree that the Union may reopen the collective bargaining agreement during fiscal year 2011 on the issue of wages for fiscal year 2011 if the City and a Public Employee Committee established under section 19 of Chapter 32B of the Massachusetts General Laws provide health insurance to eligible employees through the Group Insurance Commission (GIC).

In accordance with paragraph 23.01 of the collective bargaining agreement, the Parties also agree that the Union may reopen the collective bargaining agreement on the issue of wages if the Patrol Officers' economic settlement for any one of the two years covered by this agreement is greater than zero in order to maintain the benchmarks contained therein.

B. Stipend Payments

The parties agree to work together to phase in weekly payment of stipends, as feasible.

3. Education Incentive Pay

Article XXIX

Replace paragraphs 29.03 c and f with the following:

29.03 e. In the event that General Laws, Chapter 41, Section 108L is underfunded, repealed, or amended by the Commonwealth of Massachusetts or its acceptance rescinded by the CITY, members of the bargaining unit who were employed by the Newton Police Department on July 1, 2009 shall continue to receive the education incentive pay and percentages they were receiving prior to July 1, 2009 as well as the education incentive pay and percentages they may be entitled to receive after July 1, 2009 in accordance with Chapter 41, Section 108L had Chapter 41, Section 108L not been underfunded, repealed, or amended, and the City shall pay the entire amount thereof. It is the intent of this section to guarantee to said employees 100% payment of the education incentive pay benefits notwithstanding any subsequent appropriation or legislation that might affect Chapter 41, Section 108L or the City's reimbursement by the Commonwealth. Such education incentive pay benefits shall be no less than 10% for an Associate's degree in law enforcement or 60 points earned towards a Baccalaureate degree in law enforcement, 20% for a Baccalaureate degree in law enforcement, and 25% for a Master's degree in law enforcement or for a degree in law.

4. Grievances

The grievances pertaining to auxiliary officers and details shall be returned to step two of the contractual grievance procedure for further discussion of a potential resolution.

Agreed to this 11th of September, 2009 by

City of Newton

Newton Superior Officers Association

James P. [Signature]

Edward J. Mahoney

Dennis P. [Signature]

Dennis P. Benne

[Signature]

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF NEWTON

AND

NEWTON POLICE SUPERIOR OFFICERS ASSOCIATION

JULY 1, 2006 – JUNE 30, 2009

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AGREEMENT

This AGREEMENT by and between the CITY OF NEWTON, hereinafter referred to as the CITY, and the NEWTON POLICE SUPERIOR OFFICERS ASSOCIATION, hereinafter referred to as the ASSOCIATION, is designed to maintain and promote a harmonious relationship between the CITY OF NEWTON and its employees who are within the provisions of this Contract, in order that a more efficient and progressive public service may be rendered.

ARTICLE I

Recognition and Bargaining Unit

1.01 The CITY recognizes the ASSOCIATION as the sole and exclusive bargaining agent of the Superior Officers of the Newton Police Department consisting of all Sergeants, Lieutenants and Captains, but excluding the Chief, Deputy Chief, the Executive Officer designated by the Chief to serve in his office, Internal Affairs Officer, Meter Maids, Traffic Supervisors and all other employees not employed as Superior Officers of the Department for the purposes of collective bargaining with respect to wages, hours and other conditions of employment.

ARTICLE II

Payroll Deduction of Association Dues

2.01 Pursuant to the provisions of General Laws, Chapter 180, Section 17A, accepted by the CITY, ASSOCIATION dues shall be deducted by the CITY weekly from the salary of each Newton Police Superior Officer who voluntarily executes and remits to the CITY a form of authorization for payroll deduction of ASSOCIATION dues, initiation fee and assessments. Such authorization may be withdrawn by the Superior Officer by giving at least sixty (60) days notice in writing to the CITY and by filing a copy thereof with the Treasurer of the ASSOCIATION. Transmittal of said dues deducted shall be made to the ASSOCIATION Treasurer within twenty-five (25) working days after the week in which dues are deducted; provided that the CITY Treasurer is satisfied by such evidence as he may require that the Treasurer of the ASSOCIATION has given to the ASSOCIATION a bond, in a form approved by the Commissioner of Corporations and Taxation, for the faithful performance of his duties, in a sum

and with such surety or sureties as are satisfactory to the City Treasurer.

2.02 The following authorization of dues form shall be used:

"Authorization of Payroll Deduction

By _____
Last Name First Name Middle Name

To _____
Employer Department

Effective _____
Date

I hereby request and authorize you to deduct from my earnings once each week an amount to be established by the NEWTON POLICE SUPERIOR OFFICERS ASSOCIATION as dues. The amount shall be paid to the Treasurer of the ASSOCIATION.

The authorization shall continue for a period of one (1) year from the date hereof or until the termination of this AGREEMENT (whichever comes first) and shall be automatically renewed for successive periods of one (1) year unless written notice of revocation is given by me to you in writing. Upon the receipt thereof, this authorization shall expire sixty (60) days thereafter.

Signed _____"

2.03 Agency Fee - Any member of the Bargaining Unit who is not a member of the ASSOCIATION shall, during the life of this AGREEMENT, pay an agency service fee to the Union in accordance with G.L. c. 150E.

2.04 The ASSOCIATION agrees to hold the CITY harmless for any liabilities, civil or criminal, which may arise out of the implementation of this Article.

ARTICLE III

Seniority

3.01 Seniority within the Newton Police Department shall commence from the date of appointment as a regular full-time member of the Newton Police Department. Seniority for Superior Officers appointed on the same date from the same civil service list shall be determined by their respective position on that civil service list and this shall be applicable within classification.

3.02 Seniority for Superior Officers within a particular Bureau of the Newton Police Department shall commence from the date of a Superior Officer's appointment to that Bureau as a Superior Officer. Seniority for Superior Officers who were appointed to a particular Bureau as a Superior Officer on the same date shall be determined by their respective dates of appointment to the Superior Officers' bargaining unit.

3.03 Seniority shall not be broken by vacation time, sick time, injury leave, temporary layoff or leave of absence as defined in this AGREEMENT.

3.04 Seniority shall be broken by resignation or termination for just cause.

3.05 In the event of a reduction in force, layoff or abolition of positions, layoff shall be in inverse order of hiring and recall by seniority within classification.

3.06 Except as otherwise provided herein, vacancies on the day shift and night shift in the Patrol Bureau shall be filled by the assignment of the most senior Superior Officer within classification. Superior Officers on the night shift who are eligible to fill a vacancy on the day shift may elect to remain on the night shift by seniority. Only Superior Officers assigned to the day shift for less than five (5) years may bid for vacancies on the night shift by seniority. Superior Officers who exercise their right to bid from nights to days or days to nights or to stay on days or to stay on nights by seniority may not exercise that right for one year thereafter or when a vacancy occurs, whichever is sooner, but in order to exercise that right at any time there must be a vacancy. Excepted from the above are Superior Officers who are specialists and assigned to particular hours of duty by the Chief. Specialists are persons assigned as listed in Article XXXI.

3.07 A notice of vacancy in a specialist position within the Department shall be posted in a conspicuous place in the Department for a period of seven (7) consecutive days. The posting shall contain a brief description of the position, duties and responsibilities. Any member of the ASSOCIATION desiring to be considered for the position, shall submit in writing an application for a vacancy, detailing his/her qualifications for the position prior to the close of the posting period. In filling the position, the Chief of Police will make his decision based upon the nature of the duties to be performed, the needs of the Department and the qualifications of the applicants.

If, in the opinion of the Chief of Police, no appropriate candidate is available to fill the vacancy as a result of the posting, he reserves the right to fill the vacancy from among any qualified Superior Officer of the Department.

In the case of emergency, the Chief may make a temporary transfer or assignment, following which he will comply with the procedures of this Article.

3.08 Except in the case of an emergency, notice of changes of duty assignments of Superior Officers in the Patrol Bureau that are to be made shall be given to the President of the ASSOCIATION seven (7) days prior to the effective date of such change of assignment. Assignment of relief Superior Officers shall remain as presently assigned.

ARTICLE IV

Special Leave

4.01 Interpretation - Special Leave shall mean that period of time for which a Superior Officer shall be entitled to receive compensation during absence from work because of personal sickness or injury, the illness or injury of certain members of his/her family, certain religious observances, or personal business in accordance with this Article.

4.02 Superior Officers who are entitled to full compensation during a calendar month will be granted one and one-quarter days of Special Leave on the first day of the following month which shall be credited to their individual accumulation accounts.

4.03 Use of Special Leave for Personal Illness - A Superior Officer shall be entitled to use special leave to the full extent of his/her accumulation during

absence from work because of sickness or injury of the Superior Officer in accordance with this Article.

4.04 Injured Employees - Whenever a Superior Officer is incapacitated for duty because of injury sustained in the performance of his/her duty without fault of his/her own, or a Superior Officer assigned to special duty by his superior officers, whether or not he is paid for such special duty by the CITY is so incapacitated because of injuries so sustained, he/she shall be granted sick leave without loss of pay for the period of such incapacity; provided that no such leave shall be granted for any period after such Superior Officer has been retired or pensioned in accordance with law or for any period after the City Physician determines that such incapacity no longer exists:

Further, no such paid leave shall be granted or continued for any period of time after (a) the City Physician determines that the Superior Officer is capable of performing limited police duties on either a full-time or less than full-time basis; (b) the Chief, in his sole discretion, determines that a position is available for which the Superior Officer is capable of performing, and assigns him/her to fill the position; and (c) the Superior Officer fails to perform the prescribed duties.

Assignments to limited duty tasks may be changed or terminated at the sole discretion of the Chief.

When a Superior Officer is incapacitated for duty because of injuries sustained in the performance of his/her duty without fault of his/her own, he/she shall promptly notify the Chief of Police or such person as the Chief of Police shall designate.

In the event that the Superior Officer's physician and the City Physician disagree as to the Superior Officer's ability to perform limited or less than full duty, the Director of Personnel shall arrange for an examination of the Superior Officer by a physician selected from a pool of a minimum of five (5) physicians previously approved by the Director of Personnel and the NEWTON POLICE SUPERIOR OFFICERS ASSOCIATION from the list of doctors qualified by the State Retirement Board. Said physician shall be selected by either a representative of said ASSOCIATION or by a representative of said Director of Personnel by lottery system and he shall examine the Superior Officer and render an opinion as to whether or not the incapacity continues to exist in that he cannot perform limited or light duty as determined and described in limited or light

duty tasks in this section and his determination shall be binding on both parties. Pending receipt of the neutral physician's determination, the Superior Officer shall continue to be granted leave without loss of pay for that period.

4.05 Special Leave Not Allowed in Certain Cases - No Superior Officer shall be entitled to any compensation or benefits under this Article for any period of disability resulting in whole or in part from any of the following:

- (a) The voluntary use of intoxicating liquor, drugs or narcotics.
- (b) Self-inflicted injuries other than accidental.
- (c) Injuries sustained while engaged in or resulting from or arising out of the commission by such person of a felony or of a misdemeanor involving moral turpitude.
- (d) Injuries sustained while engaged in or resulting from or arising out of the violation of any lawful rule or regulation of the Police Department.
- (e) Injuries sustained as a result of reckless, improper or vicious conduct or illegal or immoral practices.

Use of Special Leave to Attend Ill Member of Family

4.06 Every member of the bargaining unit as set forth in Article I shall be entitled to use special leave to the extent of fifteen (15) days per year during required absence from work because of the illness of the Superior Officer's spouse, children or parents residing in the same household as the Superior Officer. If the Superior Officer has children of a prior marriage, or blood relative parents who do not reside in the same household, he/she will, when reporting off duty, inform the Department at which address and telephone he/she will be located because of his/her required absence from work.

"Required absence" is defined as requiring the personal attendance of the Superior Officer for the personal care of the seriously ill member and the unavailability of any other adult family member.

The Chief of Police may require a medical certificate from the ill family member's physician, setting forth the nature of the illness and certifying the need

of the Superior Officer to stay at home. "Illness" is defined as one requiring immediate and continuous availability of an adult person to furnish necessary care.

4.07 Approval of City Physician Required - No salary or wage shall accrue to any Superior Officer under paragraph 4.03 or paragraph 4.06 of this Article unless the City Physician shall find that the absence of such Superior Officer from duty is justified by reason of sickness or injury.

4.08 Use of Special Leave for Personal Business - A Superior Officer shall be entitled to use special leave during absence from work to attend to personal business. Every such absence shall be requested not later than the third working day in advance or such earlier time period as the Chief of Police may require. The scheduling of such absences for personal business shall be at the reasonable discretion of the Chief of Police or his designee. Such absences shall be limited to two (2) days during any calendar year and the right thereto shall not be cumulative.

4.09 Unused Special Leave - Unused portions of special leave shall be cumulative and such unused special leave, except during the first year of employment, shall be calculated as of January first of each year. Sick leave that was accumulated prior to January 1, 1967 in accordance with the applicable ordinances in effect prior to that date were converted as of that date to special leave and all leaves of absence with pay taken during the year 1967 prior to May 1, 1967 for any of the purposes named in this Article were deemed to have been taken under this Article. Unused special leave will not be available for use or payment in cash upon termination of employment but shall continue to be available upon a Superior Officer's transfer to another position in the same or another department. A Superior Officer who is laid off or resigns under conditions that are not discreditable to him/her shall, if re-employed within twelve months, have available any unused special leave accumulation existing at the time of his/her separation.

4.10 Leave Obtained Contrary to Provisions of Article. Any Superior Officer who shall be found by the Mayor, after a hearing, to have obtained special leave pay contrary to this Article, or through any misrepresentation by him/her or by any other person in connivance with him/her, shall not be entitled to the benefit of this Article for a period of one (1) year after such finding.

ARTICLE V

Bereavement Leave

5.01 A Superior Officer shall be entitled to paid bereavement leave during absence from work for a period not exceeding three (3) days due to the death of a parent, step-parent, husband, wife, child, step-child, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparent, grandchild, brother-in-law, or sister-in-law. Every such absence shall be approved and certified by the Chief of Police.

ARTICLE VI

Medical Examination

6.01 a. The following provisions (b and c) are applicable to employees hired on or after November 1, 1985:

b. The CITY and the ASSOCIATION agree that the maintenance of good health and physical fitness is important to the successful performance of all of the duties of a Superior Officer.

c. Superior Officers may be required to complete an annual medical examination conducted by the City Physician's Office. If the initial examination indicates the need for further testing or consultation with other physicians, the employee may have his own physician provide the CITY with information to rebut or rescind the need for further testing. The City Physician may consult with the other physician and, if the City Physician continues to require that additional testing be carried out, then the Superior Officer will cooperate in any recommended program to manage responsibly his/her medical condition which may be determined by the annual physical examination or testing.

6.02 Notwithstanding their date of employment, all members of the ASSOCIATION agree to cooperate in any preventative health care program proposed by the CITY, provided that said cooperation is totally voluntary on the part of the members of the ASSOCIATION and that the cost of such programs is paid for by the CITY.

6.03 Superior Officers initially hired on or after January 1, 1986 shall agree as a condition of employment that they do not and will not smoke at any

time. The CITY agrees to reasonably assist any of the aforementioned Superior Officers who, after becoming employed, requests assistance because he/she is unable to comply with this condition of employment.

ARTICLE VII

Uniforms and Equipment

7.01 The Chief of Police or some person under his supervision or control shall, upon proper requisition, supply the Superior Officers with uniforms and equipment (including appropriate weapons) as determined by the Chief.

7.02 Those Superior Officers assigned as Detectives or special duty in plain clothes or other special assignments in plain clothes as determined by the Chief of Police and the Mayor, will be allowed an annual clothing allowance in the amount of two hundred ninety dollars (\$290.00) per year, payable on the first pay day in December.

7.03 Upon reasonable proof, the CITY will replace clothing issued by the CITY as per paragraph 7.01 and which is damaged in the line of duty.

7.04 Payments to newly assigned specialists shall be prorated on the basis of the contract year.

7.05 Superior Officers covered by this AGREEMENT shall receive an annual payment of one hundred thirty dollars (\$130.00) per year in order to help defray the expenses incurred in cleaning their clothing. The annual payment shall be based on the twelve month period immediately prior to payment. Superior Officers separated from employment for reasons other than from death or retirement shall receive a pro-rated payment related to each month actually worked. Any portion of a month of service shall, for purposes of calculation, be considered a full month of service. Superior Officers who retire or die between the periods of payment shall not be subject to proration. However, Superior Officers off of active duty payroll status due to injury on duty shall be subject to proration commencing with the second year of such inaction. Any Superior Officer on a non-pay status beyond three (3) consecutive months shall be subject to proration.

ARTICLE VIII

Paid Details and Overtime Assignments

8.01 The following provisions shall govern the assignments of extra paid details to the Superior Officers where said details are to be paid for by a government agency, an outside individual group, corporation or organization and the City of Newton.

8.02 Superior Officers who are working paid details shall do so on their off duty time or at any time when they are not scheduled to work in the Police Department or to attend as a witness or complainant in the courts.

8.03 All Superior Officers will signify in writing, at times stated by the Chief, their desire to accept paid details. Members will be allowed to sign off paid details if they also signify same in writing. A current file on the subject will be maintained at Police Headquarters and made available upon request of a Superior Officer of the ASSOCIATION.

8.04 Exchange of paid details by Superior Officers may be made if the Commanding Officer of the Platoon on duty at the time of the request makes the reassignment.

8.05 All assignments to Police details shall be under the supervision of the Captain of the Uniformed Branch and responsible to the Chief of Police. All details will be distributed fairly and equitably as to the number of details and compensation therefor. So far as practicable, details shall be fairly and equitably distributed on a continuing monthly basis.

Where a Superior Officer refuses a detail, said detail shall be included as having been worked for the purposes of the above described distribution. Superior Officers shall be given all reasonable advance notice possible of detailed assignments.

8.06 The Police Department will post all overtime and paid details on a weekly basis. Said posting will contain sufficient information so that hours of work, payment and refusals are reflected. If a Superior Officer assigns a paid detail or records a refusal, he/she will be required to initial that fact in the detail book. In order to expedite the aforesaid posting, the ASSOCIATION, at its expense, will provide one person as liaison with the Chief's office on a weekly

basis to work with Chief's staff employees relative to the preparation for publication of the aforementioned weekly list of overtime and details.

8.07 There will be no hold-downs in the paid details system.

8.08 Superior Officers accepting and then failing to fulfill a detail assignment will be removed from the list for a period of time in accordance with the severity of the violation as determined by the Chief of Police.

8.09 Except for unpaid voluntary details approved by the Chief, any Superior officer who performs a detail not officially assigned, recorded and reported as required by this AGREEMENT will not be protected by the provisions of General Laws, Chapter 41, Section 100, as amended, and shall be subject to Department disciplinary action.

8.10 Police detail assignments shall be made only when the person, firm, corporation, group or government agency has agreed to pay the applicable rate.

The rates per hour as set forth herein shall, in addition, include a surcharge of 10%, in compliance with Mass. General Laws Chapter 44, s. 53C. Sergeants and Lieutenants shall continue to be eligible for non-supervisory paid details to the same extent as at present and, in addition, the Captains shall also be eligible for such non-supervisory details. When Superior Officers perform details in a non-supervisory capacity, they shall receive the applicable Patrol Officer's rate therefor. Effective November 17, 2008, whenever Superior Officers perform any details in a supervisory capacity, they shall be compensated for such details at the following supervisory differentials over the rate that is being paid to Patrol Officers for that particular detail:

Sergeants	\$14 per hour over the Patrol Officer's rate for that particular detail
Lieutenants	\$22 per hour over the Patrol Officer's rate for that particular detail
Captains	\$30 per hour over the Patrol Officer's rate for that particular detail

Each Superior Officer working a detail shall be guaranteed four (4) hours of pay at his/her applicable detail rate for every detail lasting four (4) hours or

fewer, and eight (8) hours of pay at his/her applicable detail rate for every detail lasting more than four (4) but fewer than eight (8) hours. All hours worked after eight (8) on any one (1) detail shall be paid on the basis of one (1) hour of pay for each hour or portion thereof worked.

Superior Officers who are assigned in a non-supervisory capacity to strike details or any other details involving public demonstrations, picketing, publicity and/or any other employment dispute in which an employer has requested a detail due to the potential for disruptive or violent behavior in the workplace shall receive a detail rate that is equal to twice the regular detail rate. If a Superior Officer is assigned to such a detail in a supervisory capacity, his rate shall be calculated by applying the above-listed supervisory differentials to the aforesaid Patrol Officers' rate – i.e. twice the regular detail rate.

It is agreed that where there is more than one police officer required, the following ratio of Superior Officers to police officers will apply.

4 Patrol Officers:	1 Sergeant
8 Patrol Officers:	2 Sergeants
12 Patrol Officers:	3 Sergeants 1 Lieutenant
16 Patrol Officers:	4 Sergeants 1 Lieutenant 1 Captain
20 Patrol Officers:	5 Sergeants 1 Lieutenant 1 Captain
24 Patrol Officers:	6 Sergeants 2 Lieutenants 1 Captain
28 Patrol Officers:	7 Sergeants 2 Lieutenants 2 Captains

8.11 All details are to be paid by check only. All checks are to be made payable to the City of Newton, c/o Chief of Police and mailed to the Newton Police Department, P.O. Box 114, West Newton, MA 02465. It is agreed that all details worked in a payroll week prior to the closing of the payroll on Tuesday at 5:00 p.m. will be paid for same in their next succeeding week's pay check subject to appropriations therefor. Individual Superior Officers who are paid by check or by cash shall immediately turn the same over to the Chief and any violations thereof shall subject them to disciplinary action.

The Chief of Police has the right to assign personnel of the Department to work paid details on a "no refuse" basis when he deems conditions require it.

8.12. Only sworn Patrol and/or Superior officers are authorized to direct all traffic, either in person or by means of visible or audible signals, including at construction sites in the public way. However, in the event of fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the police or fire department may direct traffic as conditions may require, notwithstanding the provisions of this Section. Unpaid auxiliary police shall not direct traffic at construction sites in the public way.

8.13 All Superior Officers shall be allowed to work paid details in another city, town, college or other jurisdiction where agreements with the CITY are in effect.

ARTICLE IX

Overtime

9.01 All Superior Officers will be paid at the rate of time and one-half their base hourly rate for all hours actually worked in excess of forty (40) hours per week except as follows:

1. All Superior Officers having the work schedule commonly known as "four (4) and two (2)", as described in Article XIII of this AGREEMENT, shall be paid overtime for hours actually worked in excess of their regularly scheduled tour of duty or in excess of their regularly scheduled work week. In any event, no overtime shall be paid until a Superior Officer works in excess of eight and one-half (8 ½) hours in any tour of duty.

2. All Superior Officers not working the "four (4) and two (2)" schedule as described in paragraph one above, will be paid overtime for all hours actually worked in excess of forty (40) hours per week.

9.02 For purposes of this Article, required time off due to scheduling by the Office of the Chief, authorized and approved annual vacation time, holidays, time off for special leave due to death in the family, time off for special leave for personal business, and the first seven (7) days of time off for personal illness in each calendar year, shall be considered as time worked for purposes of calculating overtime payments. All other time off, paid and not paid, shall not be considered as time worked for purposes of calculating overtime payments. Shift premiums shall not be counted in computing overtime payments.

9.03 All overtime will be distributed fairly and equitably within each bureau. Excluded will be Superior Officers assigned to confidential cases for the period that they are so assigned, provided that there will be a posting when their assignment is concluded.

Overtime records shall be kept and made available for inspection by the officers of the ASSOCIATION. Superior Officers shall be required to work overtime when required by the Office of the Chief. Overtime hours rejected will be counted as overtime worked (not paid) for purposes of this section only.

9.04 Overtime payments shall not be pyramided or duplicated.

ARTICLE X

Compensatory Time Off Plan For Superior Officers

The Superior Officers shall have the option of receiving compensatory time off rather than overtime pay for overtime work pursuant to a plan which contains the following basic elements:

1. Each Superior Officer shall have the option of selecting whether overtime work shall be compensated at the overtime rate of pay or whether the overtime shall be recorded as compensatory time to be taken at a later date.

2. The City shall create a form for the Superior Officers to make the selection of overtime compensation or compensatory time off. If the form is not completed and submitted within 24 hours after the overtime is worked, then the overtime shall be paid and not accrued as compensatory time off.
3. Compensatory time off shall accrue at one and one-half hours for each hour of overtime worked.
4. Except as provided herein, accrued compensatory time off shall not exceed 80 hours per Superior Officer. When a Superior Officer's accrued compensatory time reaches 80 hours, then any overtime worked by that Superior Officer shall be paid at the usual overtime rate. Superior Officers who, prior to the date of execution of this Agreement, have already accrued compensatory time off in excess of 80 hours shall be able to use those accrued hours over 80 as compensatory time off. However, when the accrued compensatory time for any such Superior Officer drops back to the 80 hour level or below, then the 80 hour time limit shall apply thereafter. The parties shall agree upon a list showing the accrued compensatory time of all Superior Officers as of the execution date of this Agreement.
5. The foregoing 80 hour maximum accrual shall not be applicable to the Captains for whom a separate mutually acceptable accrual limit shall be agreed upon by the NPSOA and the Chief and incorporated into a side agreement.
6. All compensatory time off taken by Superior Officers must be approved by the Chief at his discretion upon at least 48 hours notice.
7. Superior Officers must use their compensatory time off in increments of at least four (4) hours. All such compensatory time off shall be considered to be a full day off for staffing purposes.
8. Upon termination of employment, a Superior Officer is entitled to receive compensation for all accrued but unused compensatory time off. The rate of compensation shall be the higher of: (a) the

Superior Officer's final rate of pay or (b) the Superior Officer's average rate of pay for his/her final three (3) years of employment.

ARTICLE XI

Emergency Leave

11.01 Each Superior Officer may, at the sole discretion of the Chief of Police, or his designee, be granted emergency leave with pay for a day on which he/she is able to secure another Superior Officer equal in rank and specialty to work in his/her place, said emergency leave to be for an unusual occurrence or for some purpose not in the normal course of events. This leave may be allowed provided:

- a. Such substitution does not impose any additional cost on the CITY with regard to salaries or payment of wages.
- b. The Officer in charge of the shift in which the substitution shall take place is notified one (1) day prior to its becoming effective except in the case of emergency, in which event notification may be made on a shorter term.
- c. The CITY shall not be responsible for enforcing any agreements among the Superior Officers under this Article and if said substitute shall fail to fulfill his/her agreement the regularly scheduled assigned Superior Officer shall not be compensated for that shift.
- d. The above emergency leave shall be processed by the card system now in use.
- e. A Superior Officer who desires an advance day off shall request same at least four (4) days prior to the day requested to the Officer in charge of his/her Platoon, or, in the case of a night relief man, the Officer in charge at the time he/she makes such request. The Officer in charge will determine if the Superior Officer can be allowed the day off or so inform him/her as soon as possible after the request subject to the approval of the Captain in charge of the Uniformed Branch. Provided, however, that the Superior Officer agrees that he/she will make the day up and will do so within thirty

(30) days from the date that he/she is granted the day off or after thirty (30) days, subject to the needs of the Department. In the case of Superior Officers of the Detective Division, Traffic-Youth and Special Services Divisions, the approval and steps mentioned above will be directed to the Division Commander with notification to the Uniformed Commander for recording on master sheets.

ARTICLE XII

Holidays

12.01 All Superior Officers shall receive ten (10) hours pay at their regular compensation for each of the following holidays:

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
Presidents Day	Columbus Day
Patriots Day	Veterans Day
Memorial Day	Thanksgiving Day
Police Memorial Day	Christmas Day

12.02 A Superior Officer working a paid holiday as set forth above shall be paid his/her regular rate of compensation in addition to his/her holiday pay. This shall not apply if a Superior Officer is scheduled to work a paid holiday but does not report to work due to illness unless he/she is hospitalized on that day or has been absent on sick leave for the (5) days preceding the holiday. In such cases he/she shall be paid as set forth above.

12.03 In order to qualify for compensation for any such holiday, such Superior Officer shall have worked on all of his/her last regularly scheduled workday prior to and the next regularly scheduled workday following such holiday, unless his/her absence on such regularly scheduled workday is due to jury service or is an absence for which compensation is payable under this AGREEMENT.

ARTICLE XIII

Hours of Work

13.01 It is understood that because of the nature of the Police Department

operation, it must be conducted on a seven (7) days per week basis, twenty-four (24) hours per day.

It is agreed that the Chief of Police shall have the right to establish various shifts whether it be day or night, seven (7) days per week to cover all phases and requirements of the Department's operation, provided, however, that each regularly scheduled shift shall run for not more than eight and one-half (8 ½) consecutive hours per day.

In case of emergency, such as natural disasters (hurricanes, tornadoes, etc.) riots, civil disorders, the Chief of Police shall have the right to schedule shifts for more than eight and one-half (8 ½) consecutive hours per day on a temporary basis to meet said emergency.

13.02 The work schedule for all Superior Officers of the Uniformed Branch of the Police Force, including those on temporary appointments, will be set up whereby each member will work four (4) consecutive days and have two (2) consecutive days off without loss of pay on a continuous rotating basis, except that the Chief of Police or other Officer for the time being performing the duties of the Chief may make the following exceptions to the above:

- (1.) Such Superior Officers of the Uniformed Branch who are on particular assignments or routes where, in the determination of the Chief of Police or other Officer for the time being performing the duties of the Chief, fixed days off are required shall be entitled to receive the same number of days off without loss of pay as are provided for the members of the Uniformed Branch, such days to be assigned per year at the discretion of the Chief of Police.
- (2.) Whenever the Chief of Police or other Officer for the time being performing the duties of the Chief shall determine that the public interest or the needs of the Department so require, he may suspend the taking of such days off by any or all Superior Officers, but in the event of such suspension, compensatory days off shall be given as soon as, in the opinion of the Chief of Police or other Officer for the time being performing the duties of the Chief, the public interest shall permit.

13.03 (1.) The Chief of Police shall have the right to establish one (1)

Relief Lieutenant position in the Patrol Bureau. The recognition of this right is without precedent or prejudice to the establishment of a relief position in any other rank in the Superior Officers' bargaining unit.

- (2.) The Relief Lieutenant shall work for four (4) consecutive days followed by two (2) consecutive days off on a continuous rotating basis. The Relief Lieutenant's work schedule on his/her four (4) consecutive days on duty shall be as follows:

One (1) last half of the night tour of duty followed by;

One (1) first half of the night tour of duty followed by;

Two (2) consecutive day tours of duty

- (3.) The Relief Lieutenant shall receive the contractual night shift differential for all time for which he/she is paid including, but not necessarily limited to, the day tours of duty on his/her schedule, holiday pay, vacation pay, sick and/or special leave pay and all other time for which the Relief Lieutenant is paid.

- (4.) When the needs of the Department so require, the Chief of Police or his designee may alter the Relief Lieutenant's work schedule subject to the following conditions:

- (a). The Relief Lieutenant will be given at least forty-eight (48) hours advance notice prior to the beginning of any changed shift to which he/she is assigned.

- (b). No shift change will require the Relief Lieutenant to work a last half tour of duty other than the one (1) last half tour to which he/she is regularly assigned.

- (c). If another Lieutenant is assigned to swap shifts with the Relief Lieutenant, he/she (i.e. the other Lieutenant) will not be subject to a shift change unless

he/she, in his sole discretion, voluntarily agrees to work the changed shift.

13.04 The work schedules of the Superior Officers of the non-uniformed branch of the Police Force shall be designated by the Chief of Police or other Officer for the time being performing the duties of the Chief provided, however, that they shall be entitled to receive the same number of days off without loss of pay as are provided for Superior Officers of the Uniformed Branch, such days to be assigned per year at the discretion of the Chief of Police.

13.05 All of the work schedules herein established shall require each full-time Superior Officer, including those on temporary appointments, to work no less than an average of forty (40) hours per week, less allowances for holidays, vacations, and approved special leaves that are in effect as per this AGREEMENT. This will be interpreted to mean that Superior Officers working existing work schedules shall not lose any benefits in terms of days off presently enjoyed by them.

13.06 Any Superior Officer who is either called in or held over to work on a day or at a time that he/she is not regularly scheduled to work in order to attend a staff meeting or for any other purpose will be compensated as follows:

- a. If the call-in or the hold-over is immediately contiguous to either the start or the end of his/her regularly scheduled hours of work on a day on which he/she is scheduled to work, he/she shall be compensated for such additional time at the overtime rate of time and one half.
- b. If he/she is not scheduled to work on a day on which he/she is called in to work to attend a staff meeting or for any other purpose or if he/she is required to report to work to attend a staff meeting or for any other purpose at a time that is not immediately contiguous to either the start or the end of his/her regularly scheduled hours of work on a day on which he/she is scheduled to work, he/she shall be compensated at the overtime rate of time and one-half for either the actual time spent on such additional work or for a minimum of four (4) hours, whichever is greater.

ARTICLE XIV

Grievance Procedure and Arbitration

14.01 The term "grievance" shall mean only an alleged violation by the CITY in the interpretation or application of one or more specific clauses of this AGREEMENT.

STEP 1 - The grievance shall be presented orally by the Superior Officer to his/her Commanding Officer within thirty (30) calendar days of its occurrence or the time the Superior Officer should have known of it. The Commanding Officer shall attempt to adjust the grievance informally. A written report of the Commanding Officer's decision resolving the grievance shall forthwith be made to the Chief of Police through his Division Commander. If, within forty-eight (48) hours from the receipt thereof, the Chief of Police does not overrule or modify said decision, it shall stand. If it is modified or overruled by the Chief of Police, his decision shall be subject to the remaining provisions of this Article.

STEP 2 - If the grievance is not resolved at STEP 1 within six (6) working days, the grievance shall be submitted in writing to the Chief of Police by the Superior Officer and the ASSOCIATION within six (6) working days after the expiration of the time set forth above for resolving the grievance at STEP 1. A meeting between the Chief of Police and/or his designated representatives and the Grievance Committee of the ASSOCIATION shall be held within seven (7) days after referral to the Chief of Police, to discuss the grievance. If not satisfactorily adjusted at this meeting, the Chief of Police shall give his written answer with specification of grounds within seven (7) days of the meeting.

Written submission of grievances at STEP 2 shall be in not less than triplicate, on forms to be agreed upon jointly and shall be signed by the representative of the ASSOCIATION filing the grievances. If the grievance is adjusted at STEP 2 of the Grievance Procedure, the adjustment shall be noted on the grievance form and shall be signed by the Chief of Police or his representatives and the ASSOCIATION representatives reaching the adjustment. If a decision satisfactory to the ASSOCIATION at any level of the Grievance Procedure is not implemented within a reasonable time, the ASSOCIATION may invoke STEP 2 or STEP 3 of the Grievance Procedure, as the case may be. If the CITY exceeds any time limit prescribed at any step of the Grievance Procedure, the grievant and/or the ASSOCIATION may invoke the next step of the procedure. The ASSOCIATION shall be notified in writing of all grievances filed

by employees covered by the AGREEMENT, all grievances hearings and all determinations. It shall have the right to have a representative present at any grievance hearing and shall be given no less than forty-eight (48) hours notice, unless waived by the ASSOCIATION.

STEP 3 - If the grievance is not resolved at STEP 2 within the time prescribed, the ASSOCIATION may submit the grievance to the Mayor. Such submission must be made in writing within five (5) days after the expiration of the time set forth for a written answer from the Chief of Police. Said submission shall be submitted in writing to the Mayor by the Superior Officer and the ASSOCIATION. A meeting between the Mayor and/or his designated representative and the Grievance Committee of the ASSOCIATION shall be held within ten (10) days after referral to the Mayor to discuss the grievance.

14.02 Arbitration - If the grievance is not resolved at STEP 3, the ASSOCIATION or the CITY may submit the grievance to Arbitration. Such submission must be made within thirty (30) calendar days after the expiration of the seven days referred to in STEP 2. Said submission shall be made to the American Arbitration Association in accordance with its rules and regulations and a copy thereof shall be given to the CITY by delivery in hand or by mail, postage paid, addressed to the Chief of Police or the ASSOCIATION.

The Arbitrator shall be without power to alter, add to or detract from the language of this AGREEMENT. He shall have no power to recommend or order any right or relief for any period of time prior to the effective date of this AGREEMENT. He shall submit in writing his findings of fact and award within thirty (30) days after the conclusion of testimony and argument, or as soon as practicable thereafter.

The decision of the Arbitrator shall be final and binding on both parties. The fees and expenses of the Arbitrator shall be shared equally by the parties.

The appearance of any Superior Officer at the arbitration hearing shall not result in any loss of pay to said Superior Officer. The scheduling of night officers whose appearance is required at the hearing shall be adjusted by the Chief of Police to permit said appearance.

ARTICLE XV

Management Rights

15.01 Except where such rights, powers, and authority are specifically relinquished, abridged, or limited by the provisions of this Contract, the CITY has and will continue to retain, whether exercised or not, all of the rights, powers and authority heretofore had by it, and except where such rights, powers and authority are specifically relinquished, abridged or limited by the provisions of this Contract, it shall have the sole and unquestioned right, responsibility and prerogative of management of the affairs of the CITY and direction of the working forces including, but not limited to, the following:

- A. To determine the care, maintenance and operation of the equipment and property used for and on behalf of the purposes of the CITY.
- B. To establish or continue policies, practices and procedures for the conduct of the CITY business and, from time to time, to change or abolish such policies, practices or procedures.
- C. To discontinue processes or operations or to discontinue their performance by Superior Officers.
- D. To select and to determine the number and types of Superior Officers required to perform the CITY's operations.
- E. To employ, transfer, promote or demote employees, or to lay-off, terminate or otherwise relieve Superior Officers from duty for lack of work or other legitimate reasons when it shall be in the best interests of the CITY or the Department.
- F. To prescribe and enforce reasonable rules and regulations for the maintenance of discipline and for the performance of work in accordance with the requirements of the CITY, provided such rules and regulations are made known in a reasonable manner to the Superior Officers affected by them.
- G. To insure that related duties connected with Department operations, whether enumerated in job descriptions or not, shall be

performed by Superior Officers.

- H. To establish contracts or sub-contracts for municipal operations, provided that this right shall not be used for the purpose or intention of undermining the ASSOCIATION or of discrimination against its members.

15.02 All work customarily performed by the Superior Officers shall be continued to be so performed unless in the sole judgment of the CITY, it can be done more economically or expeditiously otherwise.

15.03 The above rights, responsibilities and prerogatives are inherent in the Mayor and by virtue of statutory and charter provisions are not subject to review or determination in any grievance or arbitration proceeding, but the manner of exercise of such rights may be subject to the Grievance Procedure described in this contract.

ARTICLE XVI

Management-Labor Meetings

16.01 The CITY, through its Police Chief, shall meet with Superior Officers of the ASSOCIATION on one day per month or such other times as may be mutually agreed upon.

16.02 The purpose of said meetings shall be for the mutual exchange of opinions, ideas and discussion with respect to personnel policies and practices, matters affecting implementation of the AGREEMENT, status of current and new projects, and other matters of mutual interest which may be agreed upon.

16.03 ASSOCIATION Superior Officers and representatives up to the number of four (4) shall suffer no loss of pay by reason of attendance at such meetings.

16.04 The parties shall establish a Joint Labor Management Committee consisting of two members from each party to explore (1) improvements in the bereavement policy; (2) the establishment of a Section 529 program; and (3) the availability of grant funds to defray the cost of training and other police expenses.

ARTICLE XVII

No Strike Clause

17.01 No Superior Officer, nor the ASSOCIATION, nor any officers thereof shall engage in, induce or encourage any strike (as defined in M.G.L. c.150E), walk out, work stoppage, sit down, slow down, withholding of services, boycott, concerted absences or resignations.

Violations of the terms of this Article shall subject a Superior Officer to disciplinary action including discharge and should a Superior Officer process a grievance concerning his discipline, the only issue subject to the jurisdiction of the Arbitrator shall be the question of whether or not the Superior Officer, in fact, violated the provisions of this Article.

The CITY reserves the right to bring any action for a violation of this Article by means of the arbitration provisions set forth in this AGREEMENT and/or by means of any other actions permissible by law.

ARTICLE XVIII

Court Time

18.01 A Superior Officer on duty at night or on vacation, furlough or on a day off who, with the prior approval of the Chief of Police, attends the legal proceedings that are described below shall be entitled to compensation at the rate of time and one-half for all time during which he/she is either in attendance or travelling from or to the Police Station to or from such legal proceedings which time shall be computed in half hour segments to the next half hour.

- a. Criminal proceedings as a prosecution witness or similar capacity, or prosecutor in a District Court, Superior Court or Federal Court, or before a State or Federal Grand Jury in matters arising out of the Superior Officer's duties as a Newton Police Superior Officer;
- b. As a witness in a non-criminal traffic moving violation hearing in any court in matters arising out of his/her duties as a Newton Police Superior Officer;
- c. As a witness before the City of Newton Licensing Board;

- d. As a witness before other municipal, State, or Federal Agencies in matters arising out of a Superior Officer's duties as a Newton Police Superior Officer;
- e. As a subpoenaed or summonsed witness in a civil court proceeding arising out of a motor vehicle accident or so-called domestic relations incident in which the Superior Officer is called to testify concerning matters arising out of his/her duties as a Newton Police Superior Officer;
- f. In matters in which the Superior Officer is requested or subpoenaed to testify by the City of Newton.

18.02 Superior Officers will not be compensated for their appearance in any other civil, criminal or similar matters except with the approval of the Chief of Police. Hours of attendance must be verified by a ranking officer under the pains and penalties of perjury.

18.03 Superior Officers will receive no less than four (4) hours pay at time and one-half for appearances in such legal proceedings. If any such attendance or appearance occurs on a holiday or falls on a Superior Officer's day off or during his/her vacation, the Superior Officer shall receive pay due him/her under this paragraph in addition to any other pay, if any, due him/her under the holiday or vacation provisions of this AGREEMENT. Court time will not be recorded on the equal distribution for overtime list.

ARTICLE XIX

Safety Committee

19.01 The ASSOCIATION may establish a Safety Committee of no more than four (4) members. The Committee shall meet with the Chief of Police or his designated representative for a mutual exchange of opinions, ideas, and discussions concerning the safety and health conditions of the Department. Such meetings shall take place periodically, but at least once every three (3) months upon the specific request of the ASSOCIATION in writing.

ARTICLE XX

Stability of Agreement

20.01 No amendment, alteration or variation of the terms or provisions of this AGREEMENT shall bind the parties hereto unless made and executed in writing by the parties hereto.

20.02 The failure of the CITY or the ASSOCIATION to insist, in any one or more situations, upon performance of any of the terms or provisions of this AGREEMENT, shall not be considered a waiver or relinquishment of the right of the CITY or of the ASSOCIATION to future performance of any such term or provisions, and the obligations of the ASSOCIATION and the CITY to such future performance shall continue.

ARTICLE XXI

Severability

21.01 If any Article or Section of this Contract or of any Riders thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Contract and of any Rider thereto, or the application of such Article or Section to persons or circumstances other than those to which it has been invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

ARTICLE XXII

General

22.01 The parties acknowledge that during the negotiations which resulted in this AGREEMENT, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties, after the exercise of that right and opportunity, are set forth in this AGREEMENT.

22.02 Therefore, the CITY and the ASSOCIATION, for the duration of the

term of this AGREEMENT, or any extension thereof, each voluntarily and without qualification waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered by this AGREEMENT, or with respect to any subject or matter not referred specifically or not covered in this AGREEMENT, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this AGREEMENT.

ARTICLE XXIII

Wages

23.01 The annual compensation for Superior Officers covered by this AGREEMENT will be as set out in Appendix A attached hereto. The annual compensation amounts have been computed by using the following benchmark points of reference as of the following dates which have been agreed upon by the CITY and the ASSOCIATION in the negotiations resulting in this AGREEMENT.

July 1, 2006	\$49,101.19
July 1, 2007	\$50,083.21
January 1, 2008	\$50,584.04
July 1, 2008	\$51,595.73
January 1, 2009	\$52,111.68

The Sergeant's salary shall, at all times during the term of this AGREEMENT, be 121.5% of the foregoing benchmark points of reference. The Lieutenant's salary shall, at all times during the term of this AGREEMENT, be 117% of the Sergeant's salary and the Captain's salary shall, at all times during the term of this AGREEMENT, be 117% of the Lieutenant's salary.

The wage schedule in Appendix A shall be adjusted to reflect the foregoing negotiated increases in the Superior Officers' salaries.

If the Patrol Officers' salary settlement for any one of the three years covered by this AGREEMENT exceeds the percentage increases in the

benchmark points of reference set forth above, the salary schedule for the Superior Officers shall be subject to being reopened upon the request of the Association.

23.02 Night Shift Differentials – Sergeants, Lieutenants and Captains scheduled to work the night shifts' first half tour of duty and/or last half tour of duty shall receive a shift differential of seven percent (7.0%) of their respective maximum wage for all hours that their shift is regularly scheduled to work, whether or not they work such hours, and for all paid leaves. Superior Officers regularly scheduled to work shifts eligible for shift differential shall be entitled to shift differential when assigned to participate in training during day shifts.

23.03 It is agreed that in the computation of retroactive pay under this AGREEMENT, the increased daily rate as a result of an increase in salary will be reflected in the retroactive computation for the payment of holidays, overtime and court time.

23.04 Any increase in wages or economic benefits provided in this AGREEMENT are subject to the appropriation of funds by the Newton Board of Aldermen.

23.05 Each Superior Officer will be paid a weekly salary amount as agreed to between the CITY and ASSOCIATION. The annual amount will be the weekly amount times the number of weeks per year. (e.g. 365 days = 52.143 weeks and 366 days = 52.286 weeks).

23.06 A day's pay for the computation of holidays under this contract will be 1/4th of a week's pay (ten (10) hours' pay). A day's pay for all other computations under this contract involving a day's pay such as court time, overtime, retirement and death benefits, will be 1/5th of a week's pay (eight (8) hours' pay).

23.07 Longevity - Any full time Superior Officer covered by this AGREEMENT who shall have completed the following requisite number of years of continuous employment with the CITY by June 1st of any year shall be entitled to receive an annual non-cumulative longevity payment in the following specified amounts for that calendar year:

Years of Continuous Employment

Longevity Pay

Between 10 and 14 years	\$550
Between 15 and 19 years	\$650
Between 20 and 24 years	\$1,140
25 or more years	\$1,240

Longevity payments will be made on the anniversary date of employment of each Superior Officer. In the event that an eligible Superior Officer shall retire, resign or die in the course of a year in which he/she would have been entitled to such longevity payment, he/she shall receive a proportionate share of the longevity payment based on the number of full calendar months he/she was actually an employee of the CITY during that calendar year, payable on the payment date following such event.

23.08 Defibrillator Stipend. - The CITY will provide annual training on the defibrillator for all Superior Officers. In consideration of such annual training, each Superior Officer shall be paid an annual defibrillator stipend in a separate check in the amount of four hundred twenty-five dollars (\$425) on the first pay day in February of each year. In the event that an eligible Superior Officer should retire, resign or die before the first pay day in February in any contract year in which he/she would have been entitled to such defibrillator stipend, he/she (or his/her estate) shall receive a proportionate share of the annual defibrillator stipend for that contract year based upon the number of full calendar months he/she was actually an employee of the CITY during that contract year, payable on the next pay date following such an event.

23.09 Administrative Stipend. - All members of the Superior Officers Unit will receive an annual Administrative Stipend in the amount of four hundred fifty dollars (\$450) which shall be paid in a lump sum on the first pay day in July each year.

23.10 Effective retroactive to July 1, 2006, all Superior Officers shall receive an annual training differential in the amount of \$300. Beginning in March, 2007, the training differential shall be increased to \$500. In March of 2009, the training differential for each year of the contract shall be paid in the second pay period in March, beginning with the March 2009 payment. This differential shall constitute regular compensation for purposes of retirement.

Effective upon the ratification of this Agreement, training customarily done on a Superior Officer's scheduled day off may be conducted on his/her regular duty time. Patrol Bureau training under this provision will not be conducted during regular duty time when to do so would reduce the number of Superior Officers on the street below recommended minimum staffing levels, as determined by the Chief. In all cases in which the Department conducts training on a Superior Officer's scheduled day off, he/she shall have the option of either being granted compensatory time off at the rate of one and one half hours of compensatory time off for each hour of off-duty training or of being paid for such off-duty training at the rate of time and one-half.

The Department shall exercise its best efforts to receive grant funds for training purposes. When training is funded by a grant, the trainee shall not have the option of selecting compensatory time off; rather, he/she shall be paid at the rate of time and one half for all off-duty grant training attended.

23.11 All wages for Superior Officers who are hired by the Newton Police Department for the first time after January 1, 2006, excluding all contractual stipend payments, shall be paid through direct deposit.

ARTICLE XXIV

Fair Practices

24.01 As sole collective bargaining agent, the ASSOCIATION will continue its policy of accepting into voluntary membership all eligible Superior Officers of the Newton Police Department. The ASSOCIATION will represent equally all Superior Officers without regard to membership, participation in or activities of the ASSOCIATION.

24.02 The CITY agrees that it shall not discriminate against any Superior Officer because of his/her activity or membership in the ASSOCIATION or because of his/her non-membership in the ASSOCIATION.

24.03 The CITY further agrees that there will be no discrimination against any Superior Officer for his adherence to any provision of this AGREEMENT.

24.04 The parties agree that they must comply with all applicable employment statutes and regulations and, therefore, the provisions of this AGREEMENT shall be administered subject to the requirements of State and

Federal law, regulations or policy.

ARTICLE XXV

Leave of Absence Without Pay

25.01 Leaves of absence for limited periods of time not to exceed ninety (90) days may be granted for any reasonable purpose, and any such leave may be extended or renewed for any reasonable period. Reasonable purpose in each case must be agreed upon by the ASSOCIATION and the Chief.

ARTICLE XXVI

Retirement and Death Benefits

26.01 Whenever a Superior Officer's employment is terminated by retirement under the General Laws of the Commonwealth of Massachusetts or by death, without his/her having exhausted his/her accumulated special leave, he/she, or in the case of his/her death, his/her estate, shall be paid at the regular rate of compensation payable to him/her at the time of such retirement or death, an amount equal to sixty percent (60%) of such accumulated special leave subject to the following conditions:

- A. There shall be no payment if the Superior Officer has less than one hundred (100) days of such accumulated special leave at the time of his/her retirement or death:
- B. Superior Officers with 100 or more such accumulated special leave days shall receive payments in accordance with the following schedule:

100 – 149 days	\$4,000
150 – 199 days	\$5,000
200+ days	\$6,000

26.02 A Superior Officer's "regular compensation" for the purpose of computing his retirement benefits shall include his annual salary as set forth in Appendix A, the night shift differential as set forth in Section 23.02, the holiday pay as set forth in Sections 12.01 and 23.06, the longevity pay as set forth in Section 23.07, the defibrillator stipend as set forth in Section 23.08, the

administrative stipend as set forth in Section 23.09, the training differential as set forth in Section 23.10, the education incentive pay as set forth in Article XXIX, the computer familiarity stipend as set forth in Section 29.06, the annual clothing allowance as set forth in Section 7.02, the annual cleaning allowance as set forth in Section 7.05, the exceptional service recognition increment as set forth in Article XXX and any other form of compensation that is permitted by the applicable state law or the regulations that have been or are issued thereunder.

ARTICLE XXVII

Hospitalization and Medical Program

27.01 The CITY will continue to provide the Group Health Coverage Plans, including the Flexible Spending Program and the Dental Plan, with the level of benefits that were in effect as of December 1, 2003 and the premium rates for this coverage will continue to be allocated on an eighty percent (80%) City/twenty percent (20%) employee basis. The following changes in the health insurance plans were negotiated by the CITY and the ASSOCIATION and were implemented as of December 1, 2003:

New Co-pays	Tier 1	Tier 2	Tier 3
<i>Retail</i>			
30 days	\$5	\$20	\$30
60 days	\$10	\$40	\$60
90 days	\$15	\$60	\$90
<i>Mail Order</i>			
90 days	\$10	\$40	\$60 Tufts/\$90 HPHC

- Emergency Room visits – increase co-payments for emergency room visits to \$50.
- Physician visits – increase co-payments for physician office visits from \$10 per visit to \$15 per visit.
- Front End Deductible for Unauthorized Services – POS Unauthorized Services Deductible from \$100 to \$250 with an

annual Unauthorized Services Out-of-Pocket maximum from \$1,000 per individual to \$2,500 per family.

- Inpatient Admission Deductible – 150 deductible for any inpatient admission with an out of pocket annual maximum of \$300.

The CITY may provide additional group health plans and, if it does, it will pay the same eighty percent (80%) of the premiums for any such additional group health plans as it pays for the current Group Health Coverage Plans.

27.02 Canadian Prescription Option

The CITY'S group health plans may include a Canadian prescription option.

ARTICLE XXVIII

Vacation Benefits

28.01 The following vacation policy is established by the ordinances of the City of Newton and by State Law.

28.02 Superior Officers will be entitled to the following vacation time on account of longevity.

On anniversary date after 5 years	3 weeks total
On anniversary date after 10 years	4 weeks total
On anniversary date after 20 years	5 weeks total

28.03 Provided that a Superior Officer is eligible for a regular vacation, he/she will be entitled to an additional week of vacation in the calendar year in which the anniversary date is reached and this additional week of vacation must be used before the end of that calendar year. If the employee reaches his/her anniversary date in the last full week of November or in the month of December, he/she will be deemed to have reached his/her anniversary date, for vacation purposes, as of November 1, so that he/she can take an additional week during the full two month period of November and December.

28.04 Superior Officers shall have the option of carrying over up to five (5) vacation days from one calendar year to the next provided that any such days

are taken by March 31st of the following year.

28.05 In the event that a member has any unused vacation days at the time of retirement, he/she shall be compensated for any such days at his/her current per diem salary.

ARTICLE XXIX

Educational Incentive Pay

29.00 Educational credits earned as of June 30, 1981 and for which Superior Officers were receiving annual payments shall hereafter be paid for at the rate of \$17.00 per annum per hourly credit.

29.01 All Superior Officers who have earned college degrees in either Public Administration, Management, Sociology or Psychology shall, on or about December 1st of each year of this contract, receive an educational incentive stipend in a separate check in the following amounts:

Associate's Degree	\$1,900
Bachelor's Degree	\$3,600
Master's Degree	\$4,500

Any Superior Officer who is enrolled in any of the foregoing disciplines - i.e. Public Administration, Management, Sociology or Psychology - and who has completed sixty (60) credits toward such a degree by December 1st of any year will be considered to have earned an Associate's Degree and will be paid therefor at the applicable Associate's Degree rate specified above.

In the event that an eligible Superior Officer should retire, resign or die before December 1st in any contract year in which he/she would have been entitled to such education incentive stipend, he/she (or his/her estate) shall receive his/her full educational incentive stipend for that year on the next pay date following such event.

29.02 Those members of the bargaining unit who are enrolled in or who have degrees either in Law Enforcement or in Criminal Justice or in any other discipline recognized under M.G.L. c. 41 § 108L, the "Quinn Bill", shall no longer

be eligible for the educational incentive stipends that are set forth in Section 29.01 above. Instead, their educational incentive payments shall thereafter be made pursuant to the "Quinn Bill."

29.03 The following provisions became effective and were implemented as of July 1, 1998 pursuant to the CITY's adoption and implementation of M.G.L. c. 41 § 108L:

- a. Superior Officers who receive educational incentive payments under the Quinn Bill will no longer be eligible for the degree payments specified in Section 29.01. However, they shall continue to be eligible for the Police Computer Familiarity Stipend that is provided for in Section 29.06a.
- b. Eligible Superior Officers with Quinn Bill degrees shall have the following educational incentive payments added onto their regular weekly salaries:

Associate's Degree	10%
Bachelor's Degree	20%
Master's Degree	25%

- c. A Superior Officer who is enrolled in a Quinn Bill Bachelor's Degree Program will, upon completion of sixty (60) credits toward that degree, begin to receive the Associate's Degree payment of 10%. Payment to be made upon timely receipt of letter of verification of equivalency from school.
- d. The Quinn Bill payments shall not be included in the computation of an eligible Superior Officer's overtime and/or detail rates unless such inclusion is required under the FLSA or the applicable regulations or rulings thereunder.
- e. In the event that M.G.L. c. 41 § 108L is repealed by the General Court, and such repeal causes the complete cessation of all reimbursement to the CITY by the Commonwealth of its share of the cost of educational incentives paid pursuant to M.G.L. c. 41 § 108L, those Superior Officers who are eligible for payments

thereunder shall receive only one-half of the contractual educational incentive amounts that are specified above - i.e. 10%, 20% and 25%.

- f. If, for any fiscal year, the reimbursement from the Commonwealth does not fully meet its fifty percent (50%) share of educational incentives paid pursuant to M.G.L. c. 41 § 108L, those Superior Officers who are eligible for payments thereunder shall be paid educational incentives for that year equal to 5.0%, 10.0%, or 12.5%, based on the degree held and certified, plus the percentage of the remaining 5.0%, 10.0%, or 12.5% that is equal to the percentage of the Commonwealth's share that was actually reimbursed by the Commonwealth for that fiscal year.
- g. Superior Officers who anticipate receiving a qualifying degree under the Quinn Bill shall notify the CITY of their anticipated degree by December 15 of the prior year so that the proper adjustment can be made in their weekly pay at the start of the next fiscal year.
- h. In the event that an eligible Superior Officer should retire, resign or die before June 30 of any contract year in which he/she is receiving educational incentive payments pursuant to M.G.L. c. 41 § 108L, he/she (or his/her estate) shall receive the full amount of his/her educational incentive payment for that entire contract year on the next pay date following such event.
- i. Subject to approval by the Civil Service Commission and/or the Division of Personnel Administration pursuant to M.G.L. c. 31 (the Civil Service Law), promotion into any position in the Superior Officers' unit after July 1, 1998 shall require a Bachelor's Degree in any one of the following disciplines - Law Enforcement, Public Administration, Management, Sociology, Psychology or Criminal Justice. However, this requirement shall not be applicable to any member of the Superior Officers' bargaining unit as of July 1, 1997.

29.04 All non-Quinn Bill payments that are provided for in Sections 29.00 and 29.01 shall be "grandfathered" for those Superior Officers who were receiving them as of July 1, 1997 and they shall continue until such time as any of them becomes eligible for the Quinn Bill payments hereunder.

- 29.05 a. The Educational Incentive Program set forth in this Article shall be administered by a Police Superior Officers Educational Committee of three (3) consisting of the Chief of Police or his designee, an appointee of the Mayor who shall serve at his will, and an appointee of the Newton Police Superior Officers Association.
- b. All Superior Officers desiring to pursue college courses for credit and compensation shall submit a request for approval to enroll in such courses to the Police Superior Officers Education Committee before the commencement of the semester. A Superior Officer's request shall include the courses which the Superior Officer chooses to take and a summary of the content of such courses including the number of hours and the name of the school. Superior Officers shall be compensated for courses only if, (1) they have requested and received prior approval for enrollment in such courses from the Committee, and, (2) upon successful completion of such course or courses, have submitted a certified copy of the college transcript of the grade or grades for review and approval by the Committee. In order for a credit to be approved for compensation, the Mayor's appointee must vote in the affirmative. Only courses at accredited colleges or universities may be approved.
- 29.06 a. Upon completion of the course of training that is described in the Inter-Office Memo on this subject dated May 14, 1996 from Sergeant Demeo to Chief Gorgone, all members of the Superior Officers' bargaining unit will thereafter receive an annual Police Computer Familiarity Stipend in the amount of six hundred dollars (\$600) which will be payable in a single lump sum payment in a separate check that will be issued on the third payday of the month of February each year. Verification of each Superior Officer's completion of the course of training and familiarity with the computer equipment for Police Department purposes will be by a three member committee to be appointed by the Superior Officers Association with Sergeant Demeo as the Chairman;

if Sergeant Demeo is unable to serve or to continue serving in that capacity, the parties shall designate another member of the Superior Officers' unit to serve as the Chairman. The Police Computer Familiarity Stipend shall be includable in the Superior Officers' regular compensation for the purpose of computing their retirement benefits under Chapter 32 of the General Laws.

- b. In the event an eligible Superior Officer should retire, resign or die before the third pay day in February in any contract year in which he/she would have been entitled to such Police Computer Familiarity Stipend, he/she (or his/her estate) shall receive a proportionate share of the Police Computer Familiarity Stipend for that contract year based upon the number of full calendar months he/she was actually in the employ of the CITY during that contract year, payable on the next pay date following such event.

ARTICLE XXX

Exceptional Service Recognition Plan

This Exceptional Service Recognition Plan shall be made available to all otherwise eligible members of the Superior Officers Unit upon the completion of their 20th year of employment in the Newton Police Department. Excluded from the computation of years of employment shall be any service in any police department of a municipality or governmental unit other than Newton, any employment by the City of Newton other than in the Police Department and any time in excess of six (6) consecutive months spent on a break in active service; however, in the event that an employee returns to active service after such a break in service of more than six (6) consecutive months, both his/her pre-break and post-break active service shall be included in the computation of his/her years of employment in the Newton Police Department. Any such Superior Officer shall be eligible to receive an Exceptional Service Recognition Plan increment in the percentage amount of his/her total annual compensation for any period of thirty-six (36) consecutive months during his/her employment in the Superior Officers' Unit in the Newton Police Department that is listed in Paragraph 30.01. Said increments are also subject to the conditions set forth in Paragraphs 30.02 - 30.11 below:

30.01 All Exceptional Service Increments shall be in the amount of eight percent (8%) of the Superior Officer's total annual compensation as defined in Article 26.02 of the collective bargaining agreement.

30.02 In order to qualify for participation in this Plan, a Superior Officer (a) must have at least twenty (20) years of active service in the Newton Police Department as defined above; (b) at least the last five (5) years of such service shall have been as a Superior Officer; (c) and he/she must have accumulated at least one hundred and fifty (150) days of unused special leave as of the date on which his/her participation in the Plan begins. Notwithstanding any other provision of the contract to the contrary, it is further agreed that any Superior Officer with twenty-five (25) or more years of active service in the Newton Police Department will be credited with fifteen (15) days of special leave at the start of each calendar year rather than being credited with one and one quarter such days per month as provided in Article IV, Section 4.02 for all other members of the Superior Officers' Unit.

30.03 The Superior Officer must give written notice to the Chief or his designee of his/her intent to access the Exceptional Service Recognition Plan prior to September 1st of the fiscal year prior to the start of the fiscal year in which the Superior Officer wishes to begin receiving benefits under the Plan so that it can be included in the budget for that fiscal year. The written notice shall specify the date on which the Superior Officer wishes to begin receiving benefits under the Plan.

30.04 The Exceptional Service Recognition benefit shall be included in each participating Superior Officer's weekly paycheck except as otherwise specified herein.

30.05 Once the thirty-six (36) month period for receiving benefits under the Exceptional Service Recognition Plan has been completed, the benefit payments thereunder shall terminate and the Superior Officer will revert to the salary level that he/she would otherwise be at under the terms of the Collective Bargaining Agreement that is then in effect.

30.06 The maximum number of Superior Officers who will be eligible to begin their participation in the Plan during any fiscal year will be three (3).

30.07 In the event that there are more qualified applicants who give written notice of their intent to begin their participation in the Plan during any

given contract year than the applicable number that is specified in the preceding paragraph, the determination of which applicants will be eligible to begin their participation in any such contract year shall be based solely upon their total length of service in the Newton Police Department. In the event that two or more such applicants have the same length of service in the Newton Police Department, their respective total length of service in the Superior Officers' Unit shall be the determinative factor. In the event that their length of service in the Superior Officers' Unit is also the same, the number of unused special leave days that the two or more such applicants have in their respective special leave accounts shall be the determinative factor.

30.08 In the event that any previously accepted participant in the Plan should retire, resign, be terminated or die before the end of any contract year, his/her slot may then be filled for the remainder of that contract year and thereafter for the next thirty-six (36) consecutive months beginning with the starting date of his/her participation in the Plan by the most senior applicant for participation during that contract year whose application for participation was not accepted because of the limitations that are set forth in Sections 30.06 and 30.07.

30.09 However, if no such slot should open up during any such contract year, then any Superior Officer whose application for participation in the Plan during that particular contract year was not accepted because of the limitations that are set forth in Sections 30.06 and 30.07 and who wishes to begin his/her participation in the Plan during the next or any subsequent contract year must submit a new application for participation in the Plan for the next contract year during which he/she wishes to begin his/her participation in the Plan. Whenever the number of qualified applicants for participation in the Plan during any given contract year is greater than three (3), the determination of which applicants will be eligible to begin their participation in any such contract year shall be made in accordance with the standards that are set forth in Section 30.07.

30.10 In the event that a participating Superior Officer should be placed on disability retirement or should die at any time during the thirty-six month period during which he/she is eligible to receive benefits under the Exception Service Recognition Plan, he/she or his/her estate shall receive the full payment under this Plan for the remainder of that fiscal year only.

30.11 In the event that any participant in the Plan uses more than nine (9) special leave days for non-occupational illness or injury during any fiscal year in

which he/she is a participant in the Plan, he/she shall be terminated from any further participation in the Plan. However, any such days of absence that are attributable to a serious health condition as defined on page 4 of Form WH-380 issued by the Wage and Hour Division of the Employment Standards Administration of the United States Department of Labor, as revised in December, 1999, shall not be included in the computation of the Plan Participant's sick leave utilization for the purposes of this paragraph. A copy of page 4 of the said Form WH-380 is attached hereto as Appendix C and made a part hereof. In addition, the CITY's Director of Human Resources shall have the authority to exempt from the foregoing computation of a Plan Participant's sick leave utilization any other such days which do not fall within the Department of Labor's aforesaid definition of a Serious Health Condition but which, in the sole discretion of the Director of Human Resources, nevertheless warrant such exclusion because of extenuating circumstances.

ARTICLE XXXI

Specialty Assignments

31.01 Superior Officers assigned to the following classifications shall be deemed specialists. The Chief may add or delete classifications at his discretion. He shall give the ASSOCIATION one (1) week's notice during which time the ASSOCIATION'S representative may discuss the changes with him:

- Administrative Aide to the Chief
- Computer System Manager
- Detective Sergeant/Lieutenant
- Executive Officer
- FTO Supervisor/Trainer
- Instructor
- Internal Affairs
- Prosecutor
- Traffic Sergeant

ARTICLE XXXII

Drug and Alcohol Abuse Policy

32.01 Purpose

The purpose of this policy is to provide all members of the bargaining unit with notice of the provisions of the Newton Police Department's drug and alcohol testing program for Superior Officers. It is the policy of the Newton Police Department that a drug and alcohol free Superior Officers force must be maintained at all times and that this requirement justifies the use of a reasonable employee drug and alcohol testing program. The use of non-prescribed controlled substances as defined in Chapter 94C of the Massachusetts General Laws and other forms of drug and alcohol abuse seriously impair a Superior Officer's physical and mental health, and thus, his/her job performance. Therefore, in order to ensure the integrity of the Newton Police Department's Superior Officers force and to preserve public trust and confidence in a fit and drug and alcohol free Superior Officers force, there shall be a testing program to detect inappropriate drug and alcohol use and, under appropriate circumstances, to provide for the rehabilitation of any such Superior Officer.

32.02 Authorized Use of Prescribed Medications

Any Superior Officer who is undergoing medical treatment with any prescribed drug(s) may, at his/her option, report this information to his/her supervisor, and a determination will be made as to that Superior Officer's ability to perform his/her regular duties while taking such medication.

32.03 Prohibited Conduct

The following conduct by any Superior Officer is prohibited:

- A. Unauthorized use, possession, manufacture, distribution, dispensation or sale of a non-prescribed controlled substance, illegally used drug, drug paraphernalia, or alcohol on Department property, on Department business, in Department supplied vehicles, in vehicles being used for Department purposes, or during working hours; neither this section nor Section B is intended to be applicable to unopened containers of alcohol in a Superior Officer's

private vehicle which has been purchased for the Superior Officer's off duty consumption;

- B. Unauthorized storage in a desk, locker, automobile or other repository on Department property of any illegally-used drug, non-prescribed controlled substance, drug paraphernalia, or alcohol subject to the aforesaid exception in Section A;
- C. Being under the influence of a non-prescribed controlled substance, of an illegally-used drug, or alcohol on Department property, on Department business, in Department supplied vehicles or vehicles being used for Department business or during working hours;
- D. Possession, use, manufacture, distribution or sale of illegally-used drugs or non-prescribed controlled substances while off duty;
- E. Switching or adulterating any breath, blood, urine, hair or other test sample;
- F. Refusing consent to testing or refusing to submit a breath, urine, blood, hair or other test sample for testing where and when expressly required under this policy;
- G. Failing to adhere to the terms of any rehabilitation agreement which the Superior Officer has signed provided that he/she has been given an opportunity to consult with legal counsel and/or an ASSOCIATION representative before signing same;
- H. Refusing to sign a rehabilitation agreement provided he/she has been given an opportunity to consult with legal counsel and/or ASSOCIATION representative.

32.04 A. Testing Procedure

A.I. The Chief of Police, or his designee in the Chief's absence, may require that a Superior Officer submit to a

drug and/or alcohol screening test forthwith to detect the presence of non-prescribed drugs, illegally-used drugs, alcohol or non-prescribed controlled substances for the reasons listed in paragraphs 32.04, B.1. to B.5. The Superior Officer being tested may, at his/her option, be accompanied by an ASSOCIATION representative while the screening test is being administered, provided that the taking of the test is not delayed thereby.

A.2. The Superior Officer may initiate a review of the Chief's directive in the case of a drug screening test. Failure of the Superior Officer to initiate the review immediately shall be deemed a waiver of this right. When the review procedure has been initiated, the Chief's directive shall be reviewed by a committee of three, comprised of either the Chief's Administrative Assistant or the Internal Affairs Officer appointed by the Chief; one Superior Officer appointed by the ASSOCIATION; and the CITY's Director of Personnel. The review shall be conducted and concluded within twenty-four (24) hours of the time the Chief required the test sample, or as soon thereafter as is practicable.

A.3. If the Review Committee concludes that the drug screening test is warranted, such testing shall be conducted immediately. If the Review Committee finds that the test is not warranted, the sample shall not be tested and shall be destroyed. The decision of the Review Committee shall be final and binding upon the parties and not subject to the grievance and arbitration provisions of this AGREEMENT.

A.4. Positive Test Results - The presence of greater than .04 alcohol content in the blood, or a verified positive drug test for illegally-used drugs, non-prescribed drugs or non-prescribed controlled substances shall be considered a violation of this policy. An "illegally-used drug" is defined as the ingestion of prescribed or over-the-counter medication in amounts beyond the prescribed or recommended dosage, or taken after the prescribed period of time.

A.5. The screening test of the Superior Officer shall be

administered by the City Physician, the Nurse Practitioner, or the City Physician's designee in accordance with this policy for drug and alcohol testing and provided that the person administering the test has been properly certified, trained or is otherwise qualified to administer that particular test.

A.5.(b) An original non-tested sample will be given to the Superior Officer upon request made at the time the sample is provided.

A.6. The results of the drug screening test shall be given to the Chief of Police and to the Superior Officer.

B. Reasons For Testing

Superior Officers will be required to take a drug/alcohol test as a condition of continued employment in order to ascertain prohibited drug/alcohol use, only as provided below:

B.1. If there is a reasonable suspicion of a supervisor that a Superior Officer is or has been using drugs or alcohol in violation of this policy. "Reasonable Suspicion" is something more than a hunch but less than probable cause. It means a reasonable individualized suspicion, which is articulable, that the Superior Officer has violated this policy. It must be based upon specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person to suspect that the Superior Officer is or has been using drugs and/or alcohol in violation of this policy.

Examples of "reasonable suspicion" may include, but are not limited to, the following:

(a) observable phenomena, such as direct observation of on-duty alcohol use or possession and/or direct observation of on-duty use or possession of any non-prescribed drugs or illegally used drugs, and/or the on-duty display of behaviors which appear to be

indicative of the use of any such drugs or alcohol and are not attributable to other factors;

(b) a pattern of abnormal conduct or erratic behavior while on duty (slurred speech, uncoordinated movement, gait stupor, excessive giddiness, unexplained periods of exhilaration and excitement, impaired judgment, etc.) or deteriorating work performance, including but not limited to, frequent absenteeism, excessive tardiness, or frequent accidents, not attributable to other factors;

(c) newly discovered evidence that the Superior Officer has tampered with a prior drug/alcohol test;

(d) repeated or flagrant violations of the Department's rules and procedures which are determined by a supervisor to pose a substantial risk of injury or property damage and which are not attributable to other factors and appear to be related to drug and/or alcohol abuse;

The above examples are not all inclusive, but are intended to be illustrative.

B.2. When a Superior Officer is offered any promotional position, i.e., Lieutenant, and/or Captain, as a pre-promotional condition.

B.3. When a Superior Officer is offered certain specialist assignments, as a pre-assignment condition. The Supervisory specialist assignments subject to pre-appointment drug screening are: Administrative Aide(s) to the Chief; Community Service Officer (s) Detective(s); Internal Affairs Officer(s); Traffic Officer(s); Youth Officer(s).

B.4. Subsequent to any significant vehicular accident involving a vehicle which is being operated by a Superior Officer while on duty.

B.5. Subsequent to any serious, unsafe practice or incident (such an incident includes the unplanned, unexpected and unintended discharge of a firearm) which occurs while the Superior Officer is on duty.

32.05 A. Consequences of a Positive Test

A.1. A positive test in violation of this policy or any other violation of this policy will result in disciplinary action in accordance with the Department's disciplinary procedures subject to the conditions set forth below.

A.2. Discipline for any violation of this policy means any permitted disciplinary action up to and including termination of employment.

A.3. Discipline for any Superior Officer who tests positive for alcohol shall, where there is no independent violation of Department rules other than being under the influence of alcohol, be in accordance with the following schedule:

(a) For the first such offense – a Rehabilitation Agreement shall be developed and signed and the Superior Officer shall be suspended for up to a maximum of five (5) days.

(b) For the second such offense – a further Rehabilitation Agreement shall be developed and signed and the Superior Officer shall be suspended for up to a maximum of thirty days (30) days.

(c) For the third such offense – the Superior Officer shall be disciplined up to and including termination of employment.

(d) If, following the first such offense of testing positive for the presence of greater than .04 alcohol content in his/her blood, there is no further such offense by the Superior Officer for a period of three (3) years from the date of the first such offense, the first offense shall be removed from his/her record and any subsequent such offense thereafter will be deemed to be a first such offense for the purpose of

this progressive disciplinary procedure. However, if a second such offense should occur within three (3) years of the first such offense, then both such offenses shall remain on the Superior Officer's record permanently.

(e) After the completion of any Rehabilitation Program that is a part of any Rehabilitation Agreement provided for hereunder, a Superior Officer shall be subject to unannounced follow-up testing for three (3) years following his/her return to full duties. There shall be a maximum of six (6) such unannounced follow-up tests during any twelve (12) month period; however, this limitation shall not be applicable to any alcohol test that is administered for reasonable cause pursuant to this policy. If any such follow-up test yields a positive result, the Superior Officer shall be immediately subject to further disciplinary action in accordance with this policy.

A.4. The Superior Officers shall retain their Civil Service rights, as provided in G.L. c 31, in connection with any disciplinary action that may be taken against them pursuant to this policy. However, all other aspects of this policy are subject to the contractual grievance and arbitration procedure except as provided in Section 32.04 A.3.

32.06 Assistance Program

The Department shall, in addition to taking any disciplinary actions, refer any Superior Officer who is found in violation of this policy to the Employee Assistance Program for assessment, counseling, and referral for treatment or rehabilitation, as appropriate.

32.07 Voluntary Assistance

Disciplinary action will not be imposed for an employee who volunteers for drug or alcohol testing prior to being identified through other means or who obtains counseling or rehabilitation voluntarily through the Employee Assistance program and thereafter refrains from using illegal drugs or alcohol.

ARTICLE XXXIII

Civilian Complaints

33.01 The CITY agrees that a Superior Officer who is the subject of any investigation or inquiry arising out of a civilian complaint shall, prior to any interview, be appraised in writing of the following information: the date and nature of the complaint, including, but not limited to, sufficient information of knowledge of the extent of the complaint, in order to allow the Superior Officer to adequately respond to said allegations. For the purpose of this section, a complaint against a Superior Officer is one which alleges wrongful or improper conduct towards the complainant or a member of his/her family or which occurred in the presence of the complainant which, in the opinion of the Chief of Police or his designee, warrants an explanation or written report by the Superior Officer.

Superior Officers have the right to request the presence of an ASSOCIATION representative at any investigatory interview at which the Superior Officer reasonably believes there might be disciplinary action and also during any other stage of disciplinary proceedings.

ARTICLE XXXIV

Indemnification

34.01 In the event that an application for a criminal complaint is made against a Superior Officer or a Superior Officer is charged with committing a criminal offense arising out of the performance of said Superior Officer's authorized duties on behalf of the City of Newton, said Superior Officer shall, as soon as he/she is given notice thereof, notify the City Solicitor and the Chief of Police in writing of said application or charges. The City Solicitor will inform said Superior Officer whether or not he will represent him/her in the criminal matter. In the event that the City Solicitor determines not to so represent said Superior Officer, said Superior Officer shall retain counsel by selecting one of the attorneys listed in Appendix B attached hereto. In the event that said Superior Officer is ultimately found not guilty of said criminal charges in a court of law or if said charges are dismissed by a court of law or by an authorized clerk or magistrate of such court and the Officer, in the opinion of the Chief of Police, is not subject to disciplinary proceedings, then the CITY will reimburse the Superior Officer for his/her legal fees in an amount not to exceed One Thousand

Dollars (\$1,000).

Any Superior Officer choosing to select an attorney outside of the list contained in Appendix B may do so. However, in such event, he shall be ineligible for reimbursement of any legal fees pursuant to this AGREEMENT.

ARTICLE XXXV

Just Cause

35.01 No Superior Officer shall be discharged, suspended or otherwise disciplined, except as hereinafter provided, without just cause.

35.02 The just cause standard shall not be applicable to verbal or written reprimands. However, any Superior Officer who receives a verbal or written reprimand shall have the option of submitting a written response to the reprimand which, in the case of a written reprimand, shall be attached to the reprimand and, in the case of a verbal reprimand, shall be placed in the Superior Officer's personnel file if he so requests.

ARTICLE XXXVI

Civil Service Tie Breaking Procedure

The following procedure will be implemented to determine the actual placement of Police Officers on any Civil Service promotional list for the Newton Police Department:

1. Every Officer who has passed a Civil Service examination for a promotional position shall forward his/her score card to the Chief of Police.
2. Each Officer's score on the written examination will be multiplied by four (4).
3. That figure (i.e. the written examination score times 4) will then be added to the Officer's score for training and experience which has a weight of one (1).

4. The total score for each such tied Officer will then be divided by five (5) to determine his/her actual score with decimal points.
5. If an Officer is entitled under Civil Service Law, Rules and/or Regulations to two (2) points for either veteran's preference or for having twenty-five (25) years of service, those two (2) points shall then be added to the Officer's actual score as determined by ¶1 - ¶4. Note that an Officer may be eligible for two (2) points for veteran's preference or two (2) points for having twenty-five (25) years of service, but not for both.
6. The final scores as determined by ¶1 - ¶5 above shall determine each Officer's placement on the promotional list for the particular rank for which he/she has taken the Civil Service Examination."

ARTICLE XXXVII


Duration

37.01 This AGREEMENT is effective July 1, 2006, for the three year period ending June 30, 2009 and shall remain in effect from year to year thereafter unless either party hereto, desiring to terminate or amend any provisions of this Contract, sends written notice of the same to the other no later than sixty (60) days prior to the termination date hereof or any succeeding anniversary date.

37.02 In any event, if sixty (60) days prior to June 30, 2009, the ASSOCIATION has given notice to the CITY that it intends to renegotiate a new agreement, then the terms and conditions of this AGREEMENT will continue in full force and effect during the negotiation process of that new Agreement, but not later than January 1, 2010.

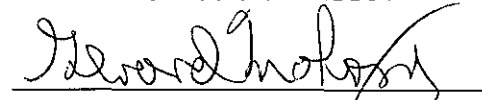
Witness our hands and seal this 5th day of March, 2009.


CITY OF NEWTON



Mayor


Approved as to legal form
and character

NEWTON POLICE SUPERIOR
OFFICERS ASSOCIATION


President


Vice President


Secretary


Treasurer


Collective Bargaining Committee


Collective Bargaining Committee

APPENDIX A

WAGES

	July 1, 2006	July 1, 2007	January 1, 2008	July 1, 2008	January 1, 2009
OSG	1,147.27 59,657.95	1,170.21 60,851.10	1,181.92 61,459.61	1,205.55 62,688.80	1,217.61 63,315.69
OLT	1,342.30 69,799.79	1,369.15 71,195.79	1,382.84 71,907.74	1,410.50 73,345.90	1,424.60 74,079.36
OCP	1,570.50 81,665.77	1,601.91 83,299.07	1,617.92 84,132.06	1,650.28 85,814.70	1,666.79 86,672.85

The salaries of the Superior Officer classifications have been determined by applying a rank differential of 21.5% for the Sergeants to the hereinafter described benchmark points of reference and by then applying rank differentials of 17% to both the Lieutenants and Captains. The benchmark points of reference to which the foregoing rank differentials of 21.5% for the Sergeants, 17% for the Lieutenants and 17% for the Captains have been applied to determine the above salaries are as follows:

7/1/06	\$49,101.19
7/1/07	\$50,083.21
1/1/08	\$50,584.04
7/1/08	\$51,595.73
1/1/09	\$52,111.68

If the Patrol Officers' salary settlement for any of the three years covered by this Agreement exceeds the amounts set forth above, the salary schedule for the Superior Officers shall be subject to being reopened upon the request of the Association.

APPENDIX B

Agreed List of Attorneys Per Article XXXIV

Indemnification

Police Association List of Attorneys

As per referral of
Association's Attorney

City of Newton List of Attorneys

As per referral of City's
Labor Relations Counsel

APPENDIX C

A "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity² or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity² of more than three consecutive work shifts (including any subsequent treatment or period of incapacity² relating to the same condition), that also involves:

- (1) Treatment³ two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
- (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment⁴ under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments

A chronic condition which:

- (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

- (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- (3) May cause episodic rather than a continuing period of incapacity² (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of Incapacity² which is permanent or long-term due to a condition for which treatment may not be effective. The employee must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of Incapacity² of more than three consecutive work shifts in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

This optional form may be used by employees to satisfy a mandatory requirement to furnish a medical certification (when requested) from a health care provider, including second or third opinions and recertification (29 CFR 825.306).

Note: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

² "Incapacity" for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

³ Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

⁴ A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

5/10/12

Public Burden Statement

We estimate that it will take an average of 10 minutes to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THIS OFFICE; IT GOES TO THE EMPLOYEE.

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